SMB 8/29/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
08 AUG 29 PM 4:46
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: [signature] DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Jesus Alberto LOPEZ-Fonseca,** **Osvaldo BEJARANO-Esquivel** Defendant(s)	Magistrate Case No. '08 MJ 2667 COMPLAINT FOR VIOLATION OF: Title 8 U.S.C., Sec. 1324 (a)(2)(B)(iii) Bringing in Illegal Aliens Without Presentation

The undersigned complainant, being duly sworn, states:

On or about **August 28, 2008,** within the Southern District of California, defendant **Jesus Alberto LOPEZ-Fonseca and Osvaldo BEJARANO-Esquivel**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Raul TORRES-Escobedo, Raul Macrino GARCIA-Gonzalez and Reyna HERRERA-Cedillo,** had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Andrew Kahl SPA
SIGNATURE OF COMPLAINANT
Andrew Kahl
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **29th** DAY OF **AUGUST 2008**

[signature]
William McCurine Jr.
UNITED STATES MAGISTRATE JUDGE

DOA 08/28/08 [initials]

SMB
8/29/08

CONTINUATION OF COMPLAINT:
Jesus Alberto LOPEZ-Fonseca
Osvaldo BEJARANO-Esquivel

PROBABLE CAUSE STATEMENT

Furthermore, the complainant states that **Raul TORRES-Escobedo, Raul Macrino GARCIA-Gonzalez and Reyna HERRERA-Cedillo,** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On August 27, 2008, at approximately 11:50 p.m., Senior Patrol Agent T. Watson was performing line watch duties in the area near the 123 Tower Marker. This area is located approximately nine miles east of the Tecate, California Port of Entry and is adjacent to the United States/Mexico International boundary. Agent Watson was checking for foot prints near the United States/Mexico border fence when he noticed footprints for a group of approximately 20 suspected illegal-entrant aliens leading north from the border road.

Agent Watson followed the footprints of the group for approximately twenty minutes. After a short time, based on the foot prints, Agent Watson observed that a portion of the group, approximately six persons, had broken away from the group heading eastbound. Agent Watson continued to follow the remainder of the group. On August 28, 2008, at approximately 12:10 a.m., Agent Watson, Senior Patrol Agent B. Barnard and Senior Patrol Agent S. Stopper encountered a group of fifteen persons, who appeared to be attempting to hide, in a rock pile approximately 100 yards southwest of "Canyon City" and State Route 94. Agents Watson, Blake and Stopper identified themselves as Border Patrol agents and began to question the persons as to their immigration status. All fifteen persons, including two subjects later identified as defendants **Jesus Alberto LOPEZ-Fonseca** and **Osvaldo BEJARANO-Esquivel**, stated that they were undocumented Mexican nationals and that they were present in the United States illegally. All fifteen subjects were placed under arrest and subsequently transported to the Forrest Gate U.S. Border Patrol Processing Center in Campo, California.

DEFENDANT STATEMENT:

The defendant **Jesus Alberto LOPEZ-Fonseca** was advised of his rights as per the Miranda Warning. The defendant understood his rights and agreed to be interviewed without representation. The defendant admitted to being a citizen of Mexico illegally present in the United States. LOPEZ admitted to being a foot guide and alien smuggler. LOPEZ stated that he is known by the moniker "El Beto". LOPEZ stated that when he began guiding he was paid $100 per alien whom he successfully smuggled. LOPEZ said that he had only successful crossing groups of undocumented aliens about six times in his career. He stated that he is fully aware that the persons he guides across the border do not have documents allowing them to enter the United States legally.

As relates to today's event, LOPEZ said that he was smuggling the alien together with another foot guide called "El Negro". He was shown a photo printout of the defendant Osvaldo LOPEZ-Bejarano, and LOPEZ confirmed that BEJARANO-Esquivel was the other foot guide for the group.

When asked how many persons had been in the group, LOPEZ said that there had been about 20 including a third foot guide, but that a number of them and the third guide had gotten away. LOPEZ stated that a Puerto Rican guy, called "El Boricua", was supposed to have picked up the group, and that from there they would either be taken to Tecate and taken past the checkpoint in a trailer, or they would be driven to the area of the SR 94 Checkpoint in the load vehicle, and would then get out and circumvent the checkpoint on foot.

SMB
8/29/08

CONTINUATION OF COMPLAINT:
Jesus Alberto LOPEZ-Fonseca
Osvaldo BEJERANO-Esquivel

DEFENDANT STATEMENT:

The defendant **Osvaldo BEJARANO-Esquivel** was advised of his rights as per the Miranda Warning. The defendant understood his rights and agreed to be interviewed without representation. The defendant admitted to being a citizen of Mexico illegally present in the United States.

BEJARANO admitted to smuggling the group of aliens together with defendant Jesus Alberto LOPEZ-Fonseca, also known as "El Beto". When asked how he had become involved in the smuggling of undocumented aliens, BEJARANO stated that he had been approached by a foot guide known as "El Bizne", and offered work as a foot guide, crossing groups of undocumented aliens. BEJARANO stated that this occurred about one month ago.

BEJARANO said that "El Bizne" worked for a boss named "El Elias" and that their smuggling organization smuggled aliens through the Tecate area. BEJARANO said that he had not initially taken "El Bizne" up on the offer but that he eventually agreed to do it because he was desperate for money. He said that "El Bizne" had originally said that he would be paid $300.00 (USD) for each alien he successfully smuggled into the United States. BEJARANO stated that he was subsequently told he was to earn $100.00 (USD) for each alien he successfully smuggled into the United States.

BEJARANO stated that he knew the persons they would be crossing did not have documents allowing them to enter the United States legally.

BEJARANO was shown a photo printout and stated that this person was the other foot guide who was smuggling the group together with him. The photo printout is defendant Jesus Alberto LOPEZ-Fonseca.

MATERIAL WITNESSES STATEMENTS:

Material Witnesses **Raul TORRES-Escobedo, Raul Macrino GARCIA-Gonzalez and Reyna HERRERA-Cedillo,** stated that they are citizens and nationals of Mexico illegally present in the United States. They stated that they did not have any immigration documents allowing them to be in the United States legally. They stated that arrangements had been made in Mexico to be smuggled into the United States. All the material witnesses stated that they were to pay approximately $2,500.00 to $3,000.00 U.S. dollars to be smuggled into the United States. All material witnesses were able to positively identify the defendants **Jesus Alberto LOPEZ-Fonseca** and **Osvaldo BEJARANO-Esquivel** as the foot-guides in a photographic line-up.

Andrew Kahl SPA
Andrew Kahl
Senior Patrol Agent

[signature]
William McCurine Jr.
U.S. Magistrate Judge

8/29/08 1624hrs
Date/Time